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OFFICE OF PETITIONS

In re Application of	:
Bolt, et al.	: DECISION DISMISSING PETITIONS
Application No. 10/722,874	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Filed: November 26, 2003	:
Attorney Docket No. 01925-P0208A	:
	:

This is a decision on the petition under §§ 1.78(a)(3) and 1.78(a)(6), filed June 12, 2006 (certificate of mailing date June 9, 2006) to accept an unintentionally delayed claim under under 35 U.S.C. §§ 120 and 119(e) for the benefit of a PCT International Publication and provisional application set forth in the concurrently filed amendment.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending application must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number and indicating the

relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed June 12, 2006 (certificate of mailing date June 9, 2006) fails to state a PCT application number (instead it references an international publication number) and the relationship of the application to this application.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and a substitute amendment or an Application Data Sheet (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5) and (6)) to correct the above matters are required.


Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.


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